

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Magdalena Azmitia	Team: Squad #3	CCRB Case #: 201906312	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) NA, __/__/2018 11:15 PM	Location of Incident: Behind 80 Paladino Avenue	Precinct: 25	18 Mo. SOL 7/1/2019	EO SOL 7/1/2019	
Date/Time CV Reported Sat, 07/06/2019 3:20 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/18/2019 12:58 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT John Toscano	05616	937645	INT OAS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Dalia	02310	954693	025 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT John Toscano	Discourtesy: Sergeant John Toscano spoke discourteously to § 87(2)(b)	[REDACTED]
B.SGT John Toscano	Abuse: Sergeant John Toscano threatened § 87(2)(b) with the use of force.	[REDACTED]

Case Summary

On July 6, 2019, § 87(2)(b) filed this complaint over the phone with IAB, generating log #19-26882. It was received by the CCRB on July 18, 2019.

On an unknown date in 2018, at approximately 11:15 PM, § 87(2)(b) and his friend known to § 87(2)(b) as § 87(2)(b) were in the parking lot behind 80 Paladino Avenue in Manhattan. During that time, Sgt. John Toscano of the Intelligence Division and PO Michael Dalia of the 25th Precinct arrived to the parking lot in a vehicle. Sgt. Toscano allegedly called § 87(2)(b) a “snitch” and said, “I’ll fuck you up,” to § 87(2)(b) (**Allegation A, Discourtesy:** § 87(2)(g) **Allegation B, Abuse of Authority:** § 87(2)(g))

§ 87(2)(b) provided video footage of the incident from his personal body worn camera (BWC) [BR 05]. No additional video footage of this incident was recovered.

Findings and Recommendations

Allegation (A) Discourtesy: Sergeant John Toscano spoke discourteously to § 87(2)(b)
Allegation (B) Abuse of Authority: Sergeant John Toscano threatened § 87(2)(b) with the use of force.

§ 87(2)(b) testified to the CCRB that he was familiar with Sgt. Toscano from previous interactions [BR 04]. Specifically, § 87(2)(b) had expressed an interest in being an informant for Sgt. Toscano, who allegedly refused to work with § 87(2)(b). § 87(2)(b) believed that the incident occurred on October 24, 2018. He remembered the incident date because an arrest had taken place at the location earlier that day. § 87(2)(b) had been parked in his car next to § 87(2)(b) who had been doing work on his own vehicle. Sgt. Toscano arrived at the parking lot in a black Ford Fusion and parked the car. § 87(2)(b) told § 87(2)(b) that he heard Sgt. Toscano call § 87(2)(b) a “snitch,” after which § 87(2)(b) left the parking lot briefly to park his car elsewhere, then returned ten minutes later. At that time, § 87(2)(b) activated his own personal BWC. He saw Sgt. Toscano in the driver’s seat of the vehicle and said, “Oh, it’s this jerk-off,” to which Sgt. Toscano replied, “I’ll fuck you up,” and made other comments which § 87(2)(b) did not recall. Sgt. Toscano and his partner, who was in the passenger’s seat, left the parking lot shortly thereafter. § 87(2)(b) refused to provide § 87(2)(b)’s last name or contact information.

§ 87(2)(b)’s personal BWC video, attached to IA 32, shows § 87(2)(b) arguing with a male seated in the driver’s seat of a black sedan [BR 05]. The timestamp on the video notes the date as March 15, 2015, although § 87(2)(b) noted that the settings on the camera were never updated with the date. Due to the poor video quality and lighting at the incident location, it is unclear to whom § 87(2)(b) is speaking. A comment is made by the male after § 87(2)(b) says, “Oh, it’s this jerk-off,” but it is unclear what is said. § 87(2)(b) and the male continue to argue, and § 87(2)(b) says, “Fuck you too,” although the statement to which he is replying is unclear. The video was provided by § 87(2)(b) to IAB and was then forwarded to the CCRB. The investigation attempted to obtain the original video file from § 87(2)(b) who was ultimately uncooperative in providing it.

Sgt. Toscano testified to the CCRB that he was not on duty at the alleged incident time, having worked from 12:05 AM to 12:10 PM on October 24, 2018 [BR 06]. After reviewing the video provided by § 87(2)(b), Sgt. Toscano remembered it from a different incident date, noting that it was at some point in 2018, but did not recall the exact date or the time of year. Sgt. Toscano also disputed the incident location, stating that it took place at a location in the Wagner NYCHA development and not behind 80 Paladino Avenue as alleged by § 87(2)(b). Sgt. Toscano also noted that the vehicle he was using on the alleged incident date was a gray Toyota Camry. At the actual time of the incident, Sgt. Toscano was on-duty with his operator, PO Dalia, working with a confidential informant and observing a controlled narcotic buy. Sgt. Toscano testified that he had minimal interaction with § 87(2)(b) as he was focusing on the confidential informant. Sgt. Toscano denied saying, “I’ll fuck you up,” to § 87(2)(b) or using any profanity towards him during the incident.

PO Dalia also testified that he was not on duty on October 24, 2018 at 11:15 PM, stating that he worked from 6:00 AM to 8:35 PM that day [BR 07]. PO Dalia added that he was in the 25th Precinct stationhouse processing an arrest from 9:00 AM until his end of tour. He did not recall observing a controlled narcotic buy at that location with Sgt. Toscano on that date or any other date. PO Dalia did not recall hearing Sgt. Toscano have any conversation with § 87(2)(b) or using any profanity towards § 87(2)(b) on that day or any other day. After viewing § 87(2)(b)'s BWC video, PO Dalia noted that the incident did not look familiar to him at all.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party [BR 08]. § 87(2)(b)
- Sgt. Toscano has been a member of service for 15 years. He has been a subject in two other CCRB cases with three allegations, none of which were substantiated.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- On January 27, 2020, a request to determine if a Notice of Claim was filed was submitted; confirmation from the Office of the New York City Comptroller will be forwarded upon receipt [BR 09].
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 3

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date